



## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 11**

**[PS Docket No. 15-94; FCC 21-125; FR ID 66157]**

### **The Emergency Alert System**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In the Notice of Proposed Rulemaking (NPRM), the Federal Communications Commission (the FCC or the Commission) proposes action to improve the clarity and accessibility of visual Emergency Alert System messages to the public, particularly to people who are deaf or hard of hearing. In addition, in the included Notice of Inquiry (NOI), the Commission launches an examination of broader measures to enhance the Emergency Alert System's overall functionality and accessibility.

**DATES:** Comments on the NPRM are due on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**, and reply comments are due on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**. Comments on the NOI are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**, and reply comments are due on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by PS Docket No. 15-94, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <https://apps.fcc.gov/ecfs/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** For further information concerning the information contained in this document, send an email to David Munson, Attorney Advisor, Public Safety and Homeland Security Bureau at 202-418-2921 or [David.Munson@fcc.gov](mailto:David.Munson@fcc.gov), or

Christopher Fedeli, Attorney Advisor, Public Safety and Homeland Security Bureau at Christopher.Fedeli@fcc.gov or call 202-418-1514.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) and Notice of Inquiry (NOI), in PS Docket Nos. 15-94, FCC 21-725, adopted on December 14, 2021, and released on December 15, 2021. The full text of this document is available at <https://www.fcc.gov/document/fcc-seeks-improve-accessibility-clarity-emergency-alerts-0>.

## **SYNOPSIS**

The nation's Emergency Alert System (EAS) ensures that the public is quickly informed about emergency alerts issued by government entities and delivered over broadcast, cable, and satellite television and radio media. The EAS is comprised of both a legacy broadcast system and an internet-based Common Alerting Protocol (CAP) system. The legacy EAS distributes alerts over-the-air from one broadcast station antenna to another. Alerts can also be sent over the internet in CAP format for distribution to stations via the Federal Emergency Management Agency's Integrated Public Alert and Warning System.

Because legacy EAS alerts only relay audio and not text, the visual messages for such alerts contain only basic location and event information generated from certain data codes of the alerts, which can cause the visual message to lack clarity. The legacy EAS visual message also typically contains less information than that included in the audio message. CAP EAS alerts, by contrast, can be sent with enhanced text, enabling the visual and audio messages transmitted to the public to contain more expansive information. The procedures for constructing and converting CAP EAS alerts into legacy EAS alerts are set forth in the ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010) ("ECIG Implementation Guide"), developed and published by the EAS-CAP Industry Group. The limitations on visual

alert information in legacy EAS alerts may result in different or less information displayed visually for those who are unable to access the audio portion of an alert.

The NPRM seeks to improve the clarity and accessibility of EAS visual messages to the public, including persons who are deaf or hard of hearing, and others who are unable to access the audio message. In the NPRM, the Commission proposes to require use of a predetermined script as the visual message for legacy EAS nationwide tests (but not for CAP-based nationwide EAS tests, because CAP already provides for relaying enhanced text to form the visual message). To improve the clarity of visual messages displayed to the public for CAP-based nationwide EAS tests, the Commission proposes to revise the terminology associated with the codes for nationwide tests.. Although the Commission does not propose to apply the script approach to CAP-based nationwide EAS test alerts, it does seek comment on whether its proposed script approach or its proposed change to the national test code terminology would require changes to the ECIG Implementation Guide, and if so, what revisions would be required.

In addition, the Commission proposes to require that stations check for and use the available CAP versions of all State and Local Area alerts (which includes alerts issued by the National Weather Service) instead of the legacy EAS versions, to increase the use of CAP in light of CAP's superior visual messaging capabilities. The Commission seeks comment on whether implementing this proposal would require changes to the ECIG Implementation Guide, and if so, what changes would be required.

In the companion NOI, the Commission seeks comment on additional EAS improvements and redesigns to enable matching visual and audio alert content and otherwise improve the clarity and accessibility of EAS messages for all persons who might receive them. In the NOI, the Commission seeks comment on how the legacy EAS architecture can be modified, augmented, or redesigned to enable alert originators to relay visual text that matches

their audio message in legacy EAS alerts, as well as to enable more functionality within the EAS as a whole.

## **INITIAL REGULATORY FLEXIBILITY ANALYSIS**

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” As required by the RFA, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the NPRM.

Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

### **A. Need for, and Objectives of, the Proposed Rules**

In the NPRM, the Commission seeks comment on proposed changes to the Emergency Alert System (EAS) rules associated with visual messages constructed from legacy EAS-based alerts and visual messages constructed from Common Alerting Protocol (CAP)-formatted alerts. Specifically, the Commission seeks comment on proposed rule changes to: (i) replace the EAS National Periodic Test (or “NPT”) event code terminology from “National Periodic Test” to “Nationwide Test of the Emergency Alert System”; (ii) require EAS Participants to use the following scripted text: “This is a nationwide test of the Emergency Alert System issued by the Federal Emergency Management Agency covering the United States from [time] until [time]. This is only a test. No action is required by the public.” as the visual crawl (or block text) whenever they receive a legacy EAS alert containing the NPT event code and the “All-U.S.” geographic location code (instead of generating a visual crawl or block text from the header

codes); and (iii) require EAS Participants to poll the Integrated Public Alert and Warning System (IPAWS) CAP EAS server when they receive a state or local legacy EAS-based alert to confirm whether there is a CAP version of that alert, and if so, use the CAP version instead of the legacy EAS-based version. The proposed rule changes are intended to improve the clarity and descriptiveness of the visual messages generated for nationwide EAS test alerts and State and Local Area alerts issued using the legacy EAS; improve the chances that visual messages for State and Local Area alerts will contain the same information contained in the audio message, so members of the public who are unable to access the audio message of the alert are able to receive critical informational elements of an EAS test in plain, understandable language; and increase the use of CAP alerting which has superior visual messaging capabilities relative to legacy EAS.

## **B. Legal Basis**

The proposed action is authorized pursuant to Sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 613 and Section 202 of the Twenty-First Century Communications and Video Accessibility Act of 2010, as amended (also codified at 47 U.S.C. 613).

## **C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply**

The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and

operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

*Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 30.7 million businesses.

Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments – independent school districts with enrollment of less than 50,000.

Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

*Radio Stations.* This Economic Census category comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.” The SBA has established a small business size standard for this category as firms having \$41.5 million or less in annual receipts. Economic Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 firms operated with annual receipts of less than \$25 million per year, 17 with annual receipts between \$25 million and \$49,999,999 million and 26 with annual receipts of \$50 million or more. Therefore, based on the SBA’s size standard the majority of such entities are small entities.

In addition to the U.S. Census Bureau’s data, based on Commission data we estimate that there are 4,560 licensed AM radio stations, 6,704 commercial FM radio stations and 8,339 FM translator and booster stations. The Commission has also determined that there are 4,196 noncommercial educational (NCE) FM radio stations. The Commission however does not compile and does not otherwise have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities under the SBA size standard.

We also note, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. The Commission’s estimate therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a “small business,” an entity may not be dominant in its field of operation. We further note, that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules



may apply does not exclude any radio station from the definition of a small business on these bases, thus our estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of “small business” is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

*FM Translator Stations and Low-Power FM Stations.* FM translators and Low Power FM Stations are classified in the category of Radio Stations and are assigned the same NAICS Code as licensees of radio stations. This U.S. industry, Radio Stations, comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has established a small business size standard which consists of all radio stations whose annual receipts are \$38.5 million dollars or less. U.S. Census Bureau data for 2012 indicate that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than \$25 million per year, 17 with annual receipts between \$25 million and \$49,999,999 million and 26 with annual receipts of \$50 million or more. Therefore, based on the SBA’s size standard we conclude that the majority of FM Translator Stations and Low Power FM Stations are small.

We note again, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations must be included. Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the applicable revenue threshold, our estimate of the number of small radio broadcast stations affected is likely overstated. In addition, as noted above, one element of the definition of “small business” is that an entity would not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio broadcast station is dominant in its field of operation. Accordingly, our estimate of small radio

stations potentially affected by the rule revisions discussed in the NPRM includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

*Television Broadcasting.* This Economic Census category “comprises establishments primarily engaged in broadcasting images together with sound.” These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: those having \$41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of \$25,000,000 or less, and 25 had annual receipts between \$25,000,000 and \$49,999,999. Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

The Commission has estimated the number of licensed commercial television stations to be 1,368. According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on November 16, 2017, 1,258 stations (or about 91 percent) had revenues of \$38.5 million or less, and therefore these licensees qualified as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 390. Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 2,246 low power television stations, including Class A stations (LPTV), and 3,543 TV translator stations. Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

We note, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of “small business” requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive. Also, as noted above, an additional element of the definition of “small business” is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

*Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA size standard for this industry establishes as small, any company in this category which receives annual receipts of \$41.5 million or less. According to 2012 U.S. Census Bureau data, 367 firms operated for the entire year. Of that number, 319 operated with annual receipts of less than \$25 million a year and 48 firms operated with annual receipts of \$25 million or more. Based on this data, the Commission estimates that the majority of firms operating in this industry are small.

*Cable System Operators (Rate Regulation Standard).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are 4,600 active cable systems in the United States. Of this total, all but five cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

*Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000." As of 2019, there were approximately 48,646,056 basic cable video subscribers in the United States. Accordingly, an operator serving fewer than 486,460 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

*Satellite Telecommunications.* This category comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of \$35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there was a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than \$25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

*All Other Telecommunications.* The “All Other Telecommunications” category is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million. Thus, the Commission estimates that the majority of “All Other Telecommunications” firms potentially affected by our action can be considered small.

*Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and “wireless cable,” transmit

video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)).

*BRS*—In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than \$40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 86 incumbent BRS licensees that are considered small entities (18 incumbent BRS licensees do not meet the small business size standard). After adding the number of small business auction licensees to the number of incumbent licensees not already counted, there are currently approximately 133 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) a bidder with attributed average annual gross revenues that exceed \$15 million and do not exceed \$40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed \$3 million and do not exceed \$15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed \$3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small

business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

*EBS*—Educational Broadband Service has been included within the broad economic census category and SBA size standard for Wired Telecommunications Carriers since 2007. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.” The SBA’s small business size standard for this category is all such firms having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. In addition to U.S. Census Bureau data, March 2019 there are 1,300 licensees holding over 2,190 active EBS licenses. The Commission estimates that of these 2,190 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

*Direct Broadcast Satellite (“DBS”) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic “dish” antenna at the subscriber’s location. DBS is included in the category of “Wired Telecommunications Carriers.” The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming

distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. The SBA size standard considers a wireline business is small if it has fewer than 1,500 employees. U.S. Census Bureau data for 2012 indicates that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on that data, we conclude that the majority of wireline firms are small under the applicable SBA standard. Currently, however, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we must conclude that internally developed FCC data are persuasive that, in general, DBS service is provided only by large firms.

*Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees, and 12 firms had employment of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

*Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined “small business” for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a “very small business”



as an entity with average gross revenues of \$15 million for each of the three preceding years. The SBA has approved these small business size standards. In the Commission's auction for geographic area licenses in the WCS there were seven winning bidders that qualified as "very small business" entities, and one that qualified as a "small business" entity.

*Radio and Television Broadcasting and Wireless Communications Equipment*

*Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees, and 6 establishments operated with 2,500 or more employees. Based on this data, we conclude that a majority of manufacturers in this industry are small.

**D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

The proposed changes for which comment is sought in the NPRM, if adopted, would impose new or modified reporting, recordkeeping or other compliance obligations on certain small, as well as other, entities required to distribute EAS alerts to the public (i.e., "EAS Participants"), and that manufacture EAS equipment. At this time the Commission is not currently in a position to determine whether, if adopted, the proposed changes will require small entities to hire attorneys, engineers, consultants, or other professionals to comply and cannot quantify the cost of compliance with the potential rule changes and compliance obligations

raised for comment in the NPRM. In our request for comments on the proposals, we have requested information on the cost of implementing the proposed changes as well as potential alternatives to the proposals, particularly less costly alternatives that should be considered.

The Commission's proposal to replace the EAS event code terminology for the NPT event code from "National Periodic Test" to "Nationwide Test of the Emergency Alert System," to require using prepared script for the visual message for the legacy-based nationwide EAS test alert, and to require EAS Participants, when they receive a state or local legacy EAS alert, to poll the IPAWS CAP EAS server to confirm whether there is a CAP version of that alert and use that CAP version will likely require EAS equipment manufacturers to develop software updates to implement such changes in deployed EAS equipment and EAS equipment in production. EAS Participants would also be required to acquire and install such software updates in their EAS devices. Any EAS device models currently in deployment incapable of being updated to reflect these proposed changes likely would have to be replaced. Updating or replacing deployed devices to reflect these proposed changes would be at the expense of EAS Participants.

To help the Commission more fully evaluate the cost of compliance if we were to adopt the proposed changes, in the NPRM we request comments on the cost implications to implement these proposals and ask whether there are more efficient and less burdensome alternatives that might achieve the same results, including alternatives specific to smaller entities. We expect the information we receive in comments including cost and benefit analyses, to help the Commission identify and evaluate relevant matters for small entities, including compliance costs and other burdens that may result if the proposed recommendations in the NPRM were adopted.

**E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the

following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for such small entities.”

In the NPRM, the Commission raised for consideration the alternatives discussed below, which could minimize any significant economic impact on small entities, if the EAS proposed rules changes are adopted. The proposed nationwide test event code change is limited in scope and only changes the terminology/text seen by the public. The proposal does not change the system event code for the nationwide EAS tests. The system event code will remain “NPT,” which the Commission believes should minimize the installation burdens borne by EAS Participants. Similarly, the proposed use of scripted text requirement is also limited in scope. Rather than proposing this requirement for both for legacy-based EAS alerts and CAP alerts, we have only proposed the requirement for legacy-based EAS alerts. The Commission recognizes that implementation of the proposed changes associated with the nationwide EAS test alert will require small entities and other EAS Participants to make changes to EAS enabled devices and take additional steps to effectuate. With this in mind, we inquire about the implications for EAS and other equipment, for other EAS and related Commission rules, and for technical and operation plans and protocols relating to implementation of the proposed changes to EAS alerts and seek comment on these matters. In addition, we seek information on the costs that would be incurred and by whom, in implementing the proposed changes, on what, if any ancillary costs would be associated with modifying equipment, and whether the costs of implementing the proposal be would be outweighed by any benefit of making the visual alert crawl more informative to hearing impaired individuals.

Having data on the various issues the Commission has raised and requested comment on in the NPRM relating to the technical feasibility, costs, benefits and the potential impact of implementing the proposed EAS rule changes, including alternatives specific to smaller entities, will assist with the Commission's evaluation of the economic impact on small entities, and help to determine if the proposed rule changes are adopted, how to minimize any significant economic for small entities and identify any potential alternatives not already considered. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments and reply comments filed in response to the NPRM . Moreover, the Commission's evaluation of the comments will shape the final alternatives it considers, the final conclusions it reaches, and the actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities, if any of the proposed rule changes are adopted.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

None.

**Initial Paperwork Reduction Act of 1995 Analysis**

The NPRM may contain potential new or revised information collection requirements. Therefore, we seek comment on potential new or revised information collections subject to the Paperwork Reduction Act of 1995. If the Commission adopts any new or revised information collection requirements, the Commission will publish a notice in the Federal Register inviting the general public and the Office of Management and Budget to comment on the information collection requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

## Comments and Reply Comments

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998), <https://transition.fcc.gov/Bureaus/OGC/Orders/1998/fcc98056.pdf>.

## Ex Parte Rules

The NPRM portion of this proceeding shall be treated as “permit-but-disclose” proceedings in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in

this proceeding should familiarize themselves with the Commission's *ex parte* rules. The NOI portion of this proceeding is exempt from the *ex parte* rules. *See, e.g.*, 47 CFR 1204(b)(1).

Incorporation by reference

**THE MATERIAL REFERENCED IN THE REGULATORY TEXT WAS APPROVED FOR INCORPORATION BY REFERENCE ON APRIL 23, 2012, AND THE NPRM SEEKS COMMENT ON WHETHER CHANGES TO THOSE STANDARDS MIGHT BE NECESSARY IN LIGHT OF CHANGES PROPOSED.**

### **Ordering Clauses**

Accordingly, IT IS ORDERED, pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 613 and Section 202 of the Twenty-First Century Communications and Video Accessibility Act of 2010, as amended (also codified at 47 U.S.C. 613), that this Notice of Proposed Rulemaking and Notice of Inquiry in PS Docket Nos. 15-94 ARE HEREBY ADOPTED and ARE EFFECTIVE upon publication in the *Federal Register*.

IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed

Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

## **List of Subjects in 47 CFR Part 11**

Incorporation by reference, Radio, Television.

FEDERAL COMMUNICATIONS COMMISSION

**Katura Jackson,**

*Federal Register Liaison Officer,*

*Office of the Secretary.*

## **Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 11 as follows:

## **PART 11 – EMERGENCY ALERT SYSTEM (EAS)**

1. The authority citation for part 11 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 613, and Pub. L. 116-283, 134 Stat. 3388, § 9201.

2. Amend § 11.31 by revising paragraph (e) to read as follows:

### **§ 11.31 EAS protocol.**

\* \* \* \* \*

(e) The following Event (EEE) codes are presently authorized:

**Table 2 to Paragraph (e)**

<b>Nature of activation</b>	<b>Event codes</b>
National Codes (Required):	
Emergency Action Notification (National only)	EAN.
National Information Center	NIC
Nationwide Test of the Emergency Alert System	NPT.
Required Monthly Test	RMT.
Required Weekly Test	RWT.
State and Local Codes (Optional):	
Administrative Message	ADR.
Avalanche Warning	AVW.
Avalanche Watch	AVA.
Blizzard Warning	BZW.
Blue Alert	BLU.
Child Abduction Emergency	CAE.
Civil Danger Warning	CDW.



Civil Emergency Message	CEM.
Coastal Flood Warning	CFW.
Coastal Flood Watch	CFA.
Dust Storm Warning	DSW.
Earthquake Warning	EQW.
Evacuation Immediate	EVI.
Extreme Wind Warning	EWV.
Fire Warning	FRW.
Flash Flood Warning	FFW.
Flash Flood Watch	FFA.
Flash Flood Statement	FFS.
Flood Warning	FLW.
Flood Watch	FLA.
Flood Statement	FLS.
Hazardous Materials Warning	HMW.
High Wind Warning	HWW.

High Wind Watch	HWA.
Hurricane Warning	HUW.
Hurricane Watch	HUA.
Hurricane Statement	HLS.
Law Enforcement Warning	LEW.
Local Area Emergency	LAE.
Network Message Notification	NMN.
911 Telephone Outage Emergency	TOE.
Nuclear Power Plant Warning	NUW.
Practice/Demo Warning	DMO.
Radiological Hazard Warning	RHW.
Severe Thunderstorm Warning	SVR.
Severe Thunderstorm Watch	SVA.
Severe Weather Statement	SVS.
Shelter in Place Warning	SPW
Special Marine Warning	SMW.

Special Weather Statement	SPS.
Storm Surge Watch	SSA.
Storm Surge Warning	SSW.
Tornado Warning	TOR.
Tornado Watch	TOA.
Tropical Storm Warning	TRW.
Tropical Storm Watch	TRA.
Tsunami Warning	TSW.
Tsunami Watch	TSA.
Volcano Warning	VOW.
Winter Storm Warning	WSW.
Winter Storm Watch	WSA.

\* \* \* \* \*

3. Amend § 11.51 by revising paragraphs (d), (g)(3), (h)(3), (j)(2), (m) introductory text, and (m)(2) to read as follows:

**§ 11.51 EAS code and Attention Signal Transmission requirements.**

\* \* \* \* \*

(d)(1) Analog and digital television broadcast stations shall transmit a visual message containing the Originator, Event, Location and the valid time period of an EAS message, except that for national test alerts (EAS messages using the NPT Event code) received in the EAS Protocol format (as opposed to the Common Alerting Protocol (CAP) format), with the “All U.S.” location code specified at § 11.31(f), the required visual message shall state the following: “This is a nationwide test of the Emergency Alert System issued by the Federal Emergency Management Agency covering the United States from [time] until [time]. This is only a test. No action is required by the public.”

Note 1 to paragraph (d)(1): The “from [time] until [time]” portion of the message shall be determined from the alert’s release date/time (JJJHHMM) and valid time period (+TTTT) header codes specified at § 11.31(c).

(2) Visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the “ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0” (May 17, 2010).

\* \* \* \* \*

(g) \* \* \*

(3)(i) Shall transmit a visual EAS message on at least one channel. The visual message shall contain the Originator, Event, Location, and the valid time period of the EAS message, except that for national test alerts (EAS messages using the NPT Event code) received in the EAS Protocol format (as opposed to the CAP format), with the “All U.S.” location code specified at § 11.31(f), the required visual message shall state the following: “This is a nationwide test of the Emergency Alert System issued by the Federal Emergency Management Agency covering the United States from [time] until [time]. This is only a test. No action is required by the public.”

Note: 2 to paragraph (g)(3)(i): The “from [time] until [time]” portion of the message shall be determined from the alert’s release date/time (JJJHHMM) and valid time period (+TTTT) header codes specified at § 11.31(c).

(ii) Visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with section 3.6 of the “ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0” (May 17, 2010).

\* \* \* \* \*

(h) \* \* \*

(3)(i) Shall transmit the EAS visual message on all downstream channels. The visual message shall contain the Originator, Event, Location, and the valid time period of the EAS message, except that for national test alerts (EAS messages using the NPT Event code) received in the EAS Protocol format (as opposed to the CAP format), with the “All U.S.” location code specified at § 11.31(f), the required visual message shall state the following: “This is a nationwide test of the Emergency Alert System issued by the Federal Emergency Management Agency covering the United States from [time] until [time]. This is only a test. No action is required by the public.”

Note 3 to paragraph (h)(3)(i): The “from [time] until [time]” portion of the message shall be determined from the alert’s release date/time (JJJHHMM) and valid time period (+TTTT) header codes specified at § 11.31(c).

(ii) Visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the “ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0” (May 17, 2010).

\* \* \* \* \*

(j) \* \* \*

(2)(i) The visual message shall contain the Originator, Event, Location, and the valid time period of the EAS message, except that for national test alerts (EAS messages using the NPT Event code) received in the EAS Protocol format (as opposed to the CAP format), with the “All U.S.” location code specified at § 11.31(f), the required visual message shall state the following: “This is a nationwide test of the Emergency Alert System issued by the Federal Emergency Management Agency covering the United States from [time] until [time]. This is only a test. No action is required by the public.”

Note 4 to paragraph (j)(2)(i): The “from [time] until [time]” portion of the message shall be determined from the alert’s release date/time (JJJHHMM) and valid time period (+TTTT) header codes specified at § 11.31(c).

(ii) Visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the “ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0” (May 17, 2010).

\* \* \* \* \*

(m) EAS Participants are required to transmit all received EAS messages in which the header code contains the Event codes for Emergency Action Notification (EAN), Nationwide Test of the Emergency Alert System (NPT), and Required Monthly Test (RMT), and when the accompanying location codes include their State or State/county. These EAS messages shall be retransmitted unchanged except for the LLLLLLLL-code which identifies the EAS Participant retransmitting the message. See § 11.31(c). If an EAS source originates an EAS message with the Event codes in this paragraph, it must include the location codes for the State and counties in

its service area (except for national event codes using the “All U.S.” location code, which includes all States and counties). When transmitting the required weekly test, EAS Participants shall use the event code RWT. The location codes are the State and county for the broadcast station city of license or system community or city. Other location codes may be included upon approval of station or system management. EAS messages may be transmitted automatically or manually.

\* \* \* \* \*

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code, or the NPT Event code in the case of a national test of the EAS, must be transmitted immediately; Monthly EAS test messages must be transmitted within 60 minutes. All actions must be logged and include the minimum information required for EAS video messages.

\* \* \* \* \*

4. Amend § 11.52 by revising paragraph (d)(2), adding paragraph (d)(5), and revising paragraphs (e) introductory text and (e)(2) to read as follows:

**§ 11.52 EAS code and Attention Signal Monitoring requirements.**

\* \* \* \* \*

(d) \* \* \*

(2) With respect to monitoring EAS messages formatted in accordance with the specifications set forth in § 11.56(a)(2), EAS Participants’ EAS equipment must interface with the Federal Emergency Management Agency’s Integrated Public Alert and Warning System

(IPAWS) EAS Atom Feed to enable the distribution of Common Alert Protocol (CAP)-formatted alert messages from the IPAWS system to EAS Participants' EAS equipment.

\* \* \* \* \*

(5) Immediately upon receipt of a State or Local EAS message that has been formatted in the EAS Protocol, EAS Participants must poll the IPAWS EAS Atom Feed to determine whether a CAP-formatted version of that received EAS Protocol-formatted alert is available, and if a CAP version of the alert is available, acquire and process that CAP version instead of the EAS Protocol-formatted version, as specified in § 11.55(c).

\* \* \* \* \*

(e) EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the Event codes for Emergency Action Notification (EAN), Nationwide Test of the Emergency Alert System (NPT), or the Required Monthly Test (RMT) for their State or State/county location.

\* \* \* \* \*

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code, or the NPT Event code in the case of a national test of the EAS, must be transmitted immediately; Monthly EAS test messages must be transmitted within 60 minutes. All actions must be logged and recorded as specified in §§ 11.35(a) and 11.54(a)(3). Decoders must be programmed for the EAN, NPT, RMT and RWT Event header codes with the appropriate accompanying location codes.

5. Amend § 11.55 by revising paragraph (c) introductory text to read as follows:

**§ 11.55 EAS operation during a State or Local Area emergency.**

\* \* \* \* \*



(c) Immediately upon receipt of a State or Local Area EAS message that has been formatted in the EAS Protocol, EAS Participants must poll the Federal Emergency Management Agency's Integrated Public Alert and Warning System (IPAWS) EAS Atom Feed to determine whether a Common Alerting Protocol (CAP)-formatted version of that received EAS Protocol-formatted alert is available, and if a CAP version of the alert is available, acquire and process that CAP version instead of the EAS Protocol-formatted version. Following this step, whether processing the alert formatted in the EAS Protocol or CAP, EAS Participants participating in the State or Local Area EAS must do the following:

\* \* \* \* \*

6. Amend § 11.61 by revising paragraph (a)(3)(i) to read as follows:

**§ 11.61 Tests of EAS procedures.**

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \*

(i)(A) All EAS Participants shall participate in national tests as scheduled by the Commission in consultation with the Federal Emergency Management Agency (FEMA). Such tests will use the NPT event code and may be initiated in the EAS Protocol format and/or the Common Alerting Protocol (CAP) format. If an EAS Participant receives a national test alert (an EAS message using the NPT Event code) in the EAS Protocol format (as opposed to the CAP format), with the "All U.S." location code specified at § 11.31(f), and is required to transmit a visual message, such visual message shall state the following: "This is a nationwide test of the Emergency Alert System issued by the Federal Emergency Management Agency covering the United States from [time] until [time]. This is only a test. No action is required by the public."

Note 1 to paragraph (a)(3)(i)(A): The “from [time] until [time]” portion of the message shall be determined from the alert’s release date/time (JJJHHMM) and valid time period (+TTTT) header codes specified at § 11.31(c).

(B) Visual messages derived from CAP-formatted national test alerts shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the “ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0” (May 17, 2010).

\* \* \* \* \*

[FR Doc. 2022-00146 Filed: 2/8/2022 8:45 am; Publication Date: 2/9/2022]